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8 Vampire Family Brands, LLC

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
11 WESTERN DIVISION

12 VAMPIRE FAMILY BRANDS, LLC,

13 Plaintiff,

14 v.

15
16 VAMPIRE COFFI, CALUTECH,
17 INC., dba OLD CHICAGO COFFEE
18 CO, DOUG FREITAG, SHOPIFY,
19 INC, ELIZABETH MERRITT, and
20 DOES 1 – 20,

21 Defendants.
22

CASE NO. 2:23-cv-04735

**FIRST AMENDED COMPLAINT
FOR TRADEMARK
INFRINGEMENT, UNFAIR
COMPETITION,
DILUTION/TARNISHMENT
AND CYBERSQUATTING.**

DEMAND FOR JURY TRIAL

23
24 Plaintiff Vampire Family Brands, LLC hereby alleges and asserts:

25 **I. JURISDICTION AND VENUE**
26

27 1. Plaintiff brings this action for injunctive relief and damages arising
28 out of the unauthorized, unfair, and deceptive competitive practices of

1 Defendants, and each of them, in connection with the commercial use and
2 exploitation of trademarks in violation of the Lanham Act.

3 2. This action arises under the Trademark Laws of the United States,
4 including, particularly, Section 43 of the Lanham Act, 15 U.S.C. § 1125.
5 Jurisdiction is conferred on this Court by 15 U.S.C. § 1121(a) and 28 U.S.C.
6 § 1338(a), in that this case arises under the Trademark Laws of the United
7 States, 15 U.S.C. Sections 1051, *et seq.*

8 3. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(2).

9
10 **II. THE PARTIES**

11 4. Plaintiff, Vampire Family Brands, LLC (“Vampire Family Brands”)
12 is a Delaware Limited Liability Company with its main business office located
13 in Los Angeles County, California.

14 5. Defendant VAMPIRE COFFI is a business of a type unknown
15 doing business throughout the United States, offering coffee for sale
16 throughout the United States, and selling coffee throughout the United States
17 and into this district via the infringing website, www.vampirecoffi.com.

18 6. Defendant CALUTECH, INC., dba OLD CHICAGO COFFEE CO,
19 (“Calutech”) is upon information and belief an Illinois Corporation and the
20 manufacturer and distributor of the accused coffee product in this case.
21 Defendant Calutech is the trademark registrant of OLD CHICAGO COFFEE.

22 7. Defendant DOUG FREITAG (“Freitag”) is upon information and
23 belief the President of Defendant Calutech and the person at Defendant
24 Calutech personally responsible for offering and shipping the accused product
25 into this district.

26 8. Defendant SHOPIFY INC (“Shopify”) is upon information and
27 belief a Canadian Corporation with a US headquarters in San Francisco,
28 California. Defendant Shopify encourages any person in the world to set up a

1 shop on their Shopify network and to dropship products, including coffee, and
2 in exchange Defendant Shopify receives monies from all sales of products
3 made on its Shopify stores, including transaction fees of up to 2% of the selling
4 price and a credit processing fee of up to 2.9% + 30 cents per transaction.
5 Defendant Shopify does not vet anyone wanting to use its services, and in this
6 case obviously Defendant Shopify did not vet its co-defendants use of
7 VAMPIRE for sales of coffee.

8 9. Defendant ELIZABETH MERRITT is upon information and belief
9 a resident of Los Angeles, California and the owner of the url
10 www.vampirecoffi.com which is a Shopify store, hosted by Defendant Shopify
11 with orders fulfilled by Defendants Calutech and Freitag.

12 10. Within the past year, Defendants have solicited orders for products
13 that infringe Plaintiff's trademarks and have sold and shipped the infringing
14 product to residents of Los Angeles, California and Defendants continue to
15 offer the infringing product for sale to residents of California, including those
16 residing within this district.

17 11. Within the past month, Defendants have solicited orders for
18 products that infringe Plaintiff's trademarks and have sold and shipped the
19 infringing product to residents of Los Angeles, California, and Defendants
20 continue to offer the infringing product for sale to residents of California,
21 including those residing within this district.

22 12. Plaintiff does not know the true names or capacities of defendants
23 named herein as DOES 1 through 20 inclusive, and therefore sues these
24 defendants by such fictitious names. Plaintiff will seek leave to amend this
25 Complaint to allege the true names, capacities, and circumstances alleging the
26 liability of said defendants at such time as the same is ascertained. Plaintiff is
27 informed and believes and, on that basis, alleges that each fictitiously named
28 defendant is responsible in some manner for the occurrences herein alleged

1 and that Plaintiff's damages as herein alleged were proximately caused by the
2 conduct of such defendants.

3 13. Plaintiff is informed, believes, and alleges that, at all times herein
4 mentioned, each of the Defendants were the agents, servants, employees, or
5 attorneys of their codefendants and, in doing the things hereinafter alleged,
6 were acting within the purpose, course, and scope of such agency and
7 employment, and with the authority, permission, and consent of their
8 codefendants.

9 III. FACTS

10 A. Plaintiff's Vampire Family Trademarks

11 14. Vampire Family Brands, via its predecessors in interest, has been
12 marketing for many years food and beverages under several federally
13 registered trademarks consisting of or relating to the term VAMPIRE
14 (collectively, the Vampire Family marks). The Vampire Family marks include
15 the following federal registrations, many of which are incontestable pursuant
16 to Section 15 of the Lanham Act, 15 U.S.C. § 1065:¹

17 Mark	Reg. No.	Goods/Services
18 VAMPIRE	2263907*	Wine
	3290011*	19 Glass- and beverage- 20 ware
	3669827*	21 Chocolate and coffee
	3978444*	22 Restaurant and bar 23 services
	4776927	24 Olive oil and balsamic 25 vinegar

26
27 ¹ Plaintiff's marks that have become incontestable through their use—if not all of
28 the above marks—are denoted by an asterisk (*) following their U.S. Registration
Numbers.

	5444375	Pre-mixed alcoholic beverages, other than beer based; pre-mixed alcoholic cocktails
	6329522	Hamburger sandwiches
VAMPIRE TACO	4939034	Tacos
VAMPYRE	3082097*	Distilled spirits
SIP THE BLOOD OF THE VINE	3079403*	Wine and distilled spirits
TASTE THE IMMORTALITY	3167606*	Wine and distilled spirits
TRUEBLOOD TB	6872784	Wine

15. The origin of Vampire wine, and Vampire Family Brand's claim of right, goes back to 1988, when its founder released a French-bottled Algerian Syrah under the brand name Vampire. The first sale was to MCA Records and Alice Cooper, and the wine was promoted under the slogan, "Sip the Blood of the Vine." Although the labels have changed over the years, along with the sourcing from Algeria to Italy then to Transylvania and, finally, to Napa, the marketing has remained similarly playful.

16. However, as the source of the wine shifted from Transylvania, Romania to Napa, California, the marketing evolved to emphasize that the quality of the wine was actually extremely good, with Vampire wine having won numerous gold medals throughout the years and scores of 90 Points and higher from various critics.

17. Plaintiff, via its predecessors in interest, expanded its wine and spirits business into gourmet quality foods, including Vampire Fine Belgian Chocolate, Vampire Gourmet Coffee, Vampire Gourmet Olive Oil, and Vampire Gourmet Balsamic Vinegar.

1 18. Plaintiff's VAMPIRE family of brands are available for the world
2 to see on its website www.Vampire.com. They have received coverage in
3 various national magazines and newspapers, including Maxim, InStyle, Elle,
4 Shape, Star Magazine, the New York Times, the LA Times, the Houston
5 Chronicle, the Star Tribune, the Chicago Sun Times, and many more. (See
6 Exhibit A). In addition, Plaintiffs' VAMPIRE family of brands have been
7 shown on various national television shows, such as The View with Oprah
8 Winfrey, Anderson Cooper (with Ashley Greene from Twilight fame), CNN
9 Headline News, MTV's Viva La Bam, Food TV, and many more. (See Exhibit
10 A).

11 19. Plaintiff markets its brands through a national network of
12 wholesalers and via www.vampire.com. For instance, VAMPIRE wine can be
13 found nationally in chains of retail stores, including the Safeway supermarkets,
14 Publix markets, Cost Plus World Market, the Yard House chain of restaurants,
15 and elsewhere.

16 20. Plaintiff, through its predecessors in interest, has been selling its
17 VAMPIRE Coffee for more than fourteen years.

18 21. Plaintiff sells its VAMPIRE coffee from its website
19 www.vampire.com as well as on Amazon.com and elsewhere, including to
20 restaurants and cafes.

21 22. Plaintiff and its associates have worked hard to ensure that they
22 put the best wine in the bottle as possible. Over the last few years, Plaintiff's
23 Vampire family of wines have received great reviews and won gold medals in
24 many competitions, including the San Francisco Chronical Wine Competition
25 for its Vampire Merlot, Vampire Cabernet Sauvignon, and Vampire Pinot Noir;
26 the Los Angeles Invitational Wine challenge for its Vampire Cabernet
27 Sauvignon and Vampire Pinot Noir; the Access Live Wine & Spirits Tasting
28 Competition for its Vampire Merlot; and the Texas International Rodeo Wine

1 Competition. Further, the Los Angeles International Wine & Spirits
 2 Competition gave Vampire Cabernet Sauvignon a rating of 92 points out of
 3 100. Plaintiff's highest-end wine, Trueblood Cabernet Sauvignon, has been
 4 rated 92 points and 97 points out of 100 by critics.

5 23. Plaintiff has spent substantial amounts of time and money
 6 establishing, advertising, and promoting its Vampire family of brands.
 7 Plaintiff has established valuable goodwill through its brands' popularity, its
 8 advertising and sales, and its websites (including www.Vampire.com). This
 9 goodwill is embodied by Plaintiff's Vampire Family marks.

10 **B. Defendants' Unauthorized Use of Plaintiff's Vampire Family** 11 **Marks**

12 24. Defendants control and operate the website
 13 www.vampirecoffi.com from which they solicit orders, ship and sell to
 14 residents of California coffee marketed under the brand name Vampire Coffi.
 15 Defendants' website refers to their Vampire Coffi as the "blood of the bean"
 16 mimicking Plaintiff's trademark for SIP THE BLOOD OF THE VINE for sales
 17 of wine. Defendants sell various types of coffee unlawfully branded as
 18 Vampire Coffi, using the TM symbol, including a French vanilla, a Bali Blue
 19 Blood (mimicking Plaintiff's Trueblood wine), arabica, pumpkin spice and
 20 more. The entire vampirecoffi.com website is an infringement of Plaintiff's
 21 vampire.com website and Plaintiff's various Vampire family of trademarks.

22 25. A printout of Defendants' website showing images of Defendants'
 23 infringing products unlawfully bearing Plaintiff's VAMPIRE name is
 24 attached as Exhibit B.

25 26. Defendants use the word "vampire" to draw attention to their
 26 coffee products to improve the marketability and enhance sales of their
 27 infringing product.
 28

1 27. All defendants' unlawfully profit from the sales on defendants'
2 website www.vampirecoffi.com. Defendant Shopify takes approximately 5%
3 plus 30 cents of each sale on the website, Defendants Calutech and Freitag take
4 approximately 50% of each coffee sale, leaving approximately 45% for the
5 ringleader defendant Merritt.

6 28. Defendants Shopify, Calutech and Freitag willfully cast a blind eye
7 at the activities of those that infringe others' trademarks, including defendant
8 Merritt, because it suits their business model to benefit off the infringing
9 activities of others.

10 29. Defendant Shopify does more than just provide software that the
11 other defendants use to infringe upon Plaintiff's trademarks. Defendant
12 Shopify actively tracks everyone that frequents all Shopify shops, including the
13 infringing Vampirecoffi.com shop and pesters them to buy whatever item one
14 was looking at that happens to be put into a cart. Defendant Shopify sends its
15 own email out to those browsing Defendant Merritt's vampirecoffi.com
16 website sending messages such as, "Your bag is ready and waiting. The item
17 in your bag is still available. Finish checking out before its gone."

18 30. Defendant Shopify encourages anyone, without vetting them to
19 drop-ship coffee, using any brand name imaginable, whether it belongs to
20 someone else or not, via the weblink: [https://www.shopify.com/blog/9-](https://www.shopify.com/blog/9-dropshipping-coffee-suppliers)
21 [dropshipping-coffee-suppliers](https://www.shopify.com/blog/9-dropshipping-coffee-suppliers).

22 31. Similarly, Defendants Calutech and Freitag encourages anyone,
23 without vetting them to drop-ship coffee, using any brand name imaginable,
24 whether it belongs to someone else or not, via the weblink
25 <https://www.oldchicagocoffee.com/dropshippers.php>.

26 32. Neither defendant Shopify nor Calutech have a method for
27 trademark registrants to notify them of infringing activity by others.
28 Defendant Calutech has a phone number that no-one answers, and defendant

1 Shopify insists that anyone wanting to lodge a complaint regarding a violation
 2 of intellectual property must first obtain a Shopify login name which in turn
 3 requires one to sign a contract with Shopify accepting their terms and services,
 4 whatever they may be.

5 33. Defendants' intentional and wrongful infringing acts are harming
 6 Plaintiff's brands' reputation, are diluting the Vampire Family brands, and are
 7 disparaging.

8 34. If Defendants are not stopped from marketing their infringing
 9 products by using Plaintiff's VAMPIRE mark, or marks confusingly similar to
 10 vampire – then consumers will likely be confused about the source and origin
 11 of Defendants' products and services and mistakenly conclude that
 12 Defendants' products or services are associated with Plaintiff and/or its
 13 licensees.

14 35. Alternatively, if Defendants are not stopped from using Plaintiff's
 15 VAMPIRE mark – or marks confusingly similar to vampire – then consumers
 16 will likely be confused about the source of Plaintiff's or its licensees' products
 17 and services and mistakenly conclude that Plaintiff's or its licensees' products
 18 or services are associated with Defendants.

19 **COUNT I**
 20 **VIOLATION OF LANHAM ACT 15 U.S.C. §1125(a)**

21 36. Plaintiff realleges the allegations in paragraphs 1 through 35.

22 37. Defendants use of "Vampire," on the packaging and description
 23 and other marketing for its coffee products is identical to Plaintiff's trademark
 24 VAMPIRE. Because the marks are identical, the marks are likely to engender
 25 the same connotation and overall commercial impression when considered in
 26 connection with Defendants' goods and services and with Plaintiff's coffee
 27 products, wines, spirits, ready-to-drink canned spirit cocktails, burgers,
 28 restaurant services, and other goods.

1 38. The goods and services for which Defendants unlawfully use the
2 Vampire mark is identical to or closely related to the goods and services for
3 which Plaintiff uses its VAMPIRE mark giving rise to the mistaken belief that
4 the goods and services of the parties have the same source.

5 39. The likelihood of confusion is even greater given that both Plaintiff
6 and defendants sell their coffee products online.

7 40. Furthermore, the channels of trade and class(es) of purchasers are
8 the same for both Plaintiff's and Defendants' goods and services, and the price
9 of Defendants' coffee products and Plaintiff's coffee products are similar,
10 further resulting in a likelihood of confusion.

11 41. Defendants' use of the word "Vampire" so closely resembles
12 Plaintiff's products and services that the public is likely to be confused and
13 deceived, and to assume erroneously that Defendants' infringing products are
14 produced by Plaintiff or under Plaintiff's direction; that Defendants' offerings
15 are part of Plaintiff's family of brands; or that Defendants are in some way
16 connected with, sponsored by, or affiliated with Plaintiff—all to Plaintiff's
17 detriment and irreparable damage.

18 42. Alternatively, Defendants' marketing and advertising efforts are
19 likely to mislead consumers to believe that Plaintiff's goods and services may
20 be the unauthorized use of Defendants' trademarks. If Defendants continue
21 their wrongful acts, consumers are likely to be misled to believe that Plaintiff
22 is misusing the VAMPIRE marks.

23 43. Defendants are not affiliated with, connected with, endorsed by, or
24 sponsored by Plaintiff, nor has Plaintiff approved or authorized any of the
25 goods or services offered or sold by Defendants.

26 44. Plaintiff has no control over the nature and quality of the goods
27 and services offered and sold by Defendants and its licensees. Any failure,
28 neglect, or default by Defendants or its licensees in providing such products or

1 services will reflect adversely on Plaintiff as being the believed source of said
2 failure, neglect, or default, thereby hampering Plaintiff's continuing efforts to
3 protect its outstanding reputation and further build that reputation. Said
4 failure, neglect, or default will irreparably harm Plaintiff by causing loss of
5 revenue to Plaintiff and loss of value of Plaintiff's considerable expenditures to
6 promote its goods and services under the VAMPIRE marks.

7 45. Without the knowledge or consent of Plaintiff, Defendants have
8 marketed and sold in interstate commerce, and in commerce substantially
9 affecting interstate commerce, products and services branded under the name
10 VAMPIRE and continue to do so. Defendants have promoted, publicized,
11 advertised, offered for sale, and sold products and services using the
12 VAMPIRE mark (or marks confusingly similar to) through persons not
13 authorized by, employed by, or associated in any way with Plaintiff, and they
14 have used the VAMPIRE trademark as a false designation and false
15 representation for alcoholic beverage products.

16 46. None of Defendants' activities described in this complaint have
17 been authorized by Plaintiff. Defendants' unauthorized use of Plaintiff's
18 trademarks and trade names in interstate commerce, or commerce
19 substantially affecting interstate commerce, constitutes infringement and an
20 inducement to infringe Plaintiff's trademarks and/or trade names. Such
21 activities are likely to cause confusion, mistake, and to deceive the public at
22 large.

23 47. Upon information and belief, Defendants have acted with the
24 unlawful purpose of:

- 25 a. Improperly taking advantage of the valuable goodwill
26 belonging to Plaintiff;
- 27 b. Soliciting Plaintiff's customers and potential customers, and
28 attempting to sell and selling to such customers goods and

1 services marketed under the VAMPIRE marks through persons
2 not authorized by, employed by, or associated in any way with
3 Plaintiff;

4 c. Inducing others to infringe Plaintiff's trademarks and trade
5 names; and

6 d. Causing the goods of persons not authorized by, employed by,
7 or associated in any way with Plaintiff to be falsely represented
8 as if they were rendered, authorized by, sponsored by,
9 endorsed by, or otherwise connected with Plaintiff and its
10 licensed trademarks and trade names.

11 48. Defendants' conduct, as alleged in this complaint, constitutes a
12 violation of 15 U.S.C. § 1125(a).

13 49. If Defendants are allowed to continue marketing and selling the
14 accused goods and services, Plaintiff will be damaged as alleged in this
15 complaint and the Defendants will profit thereby. Furthermore, unless the
16 Court permanently enjoins Defendants' infringing conduct, Plaintiff's
17 business, goodwill, and reputation will suffer irreparable injury of an insidious
18 and continuing sort that cannot be adequately calculated and compensated in
19 monetary damages.

20 50. This high-jacking of Plaintiff's VAMPIRE trademarks improved
21 the marketability of Defendants' products as the use of the word "vampire"
22 make Defendants' website and products more interesting. It led to more
23 people hearing about Defendants' website and products leading them to come
24 in and try other products sold by Defendants, thus lowering Defendants' costs
25 to advertise.

26 51. Defendants are acting willfully and with an intent to use or abuse
27 the goodwill Plaintiff has worked hard to develop. Plaintiff is therefore
28

1 entitled to treble damages arising therefrom, as well as reimbursement of
2 Plaintiff's attorneys' fees and costs.

3 52. The intentional nature of defendant's acts makes this an
4 exceptional case under 15 U.S.C. §1117(a).

5
6 **COUNT II**
7 **VIOLATION OF LANHAM ACT 15 U.S.C. §1114**
8

9 53. Plaintiff repeats each allegation contained in paragraphs 1 through
10 52 as though set forth herein at length.

11 54. Defendants have engaged in, and continue to engage in, the
12 wrongful exploitation of Plaintiff's registered marks.

13 55. Defendants' goods are so closely related to Plaintiff's goods that
14 the public is likely to be confused, be deceived, and erroneously assume that
15 Defendants' Vampire branded goods and services, as packaged, advertised,
16 promoted, and sold, are Plaintiff's, or that Defendants are in some way
17 connected with, sponsored by, or affiliated with Plaintiff—all to Plaintiff's
18 detriment and irreparable damage.

19 56. Defendants are not affiliated with, connected with, endorsed by, or
20 sponsored by Plaintiff. Furthermore, Plaintiff has not approved any of the
21 goods or services offered or sold by Defendants.

22 57. Defendants have acted willfully and with an intent to ride on, step
23 on, or demolish the goodwill Plaintiff has worked hard to develop.
24 Defendants' aforesaid infringing conduct has been willful and with knowledge
25 that the sale, marketing, advertisement, and promotion of their accused
26 products will hinder the future commercial success of Plaintiff's Vampire
27 Family of brands, including its further foray into the food, cocktail, and
28

1 restaurant space. Plaintiff is therefore entitled to treble damages arising
2 therefrom, as well as reimbursement of Plaintiff's attorneys' fees and costs.

3
4 **COUNT III**
5 **VIOLATION OF LANHAM ACT 15 U.S.C. §1125c**

6 58. Plaintiff repeats each allegation contained in paragraphs 1 through
7 57 as though set forth herein at length.

8 59. Plaintiff's Vampire family of brands have appeared on The View,
9 Anderson Cooper, CNN Headline News, Entertainment Tonight, MTV's Viva
10 La Bam, The Food Channel, and A & E. They have been written up in widely
11 circulated magazines such as Star Magazine, Shape, Maxim, InStyle, Elle, Spin,
12 Rolling Stone, Marie Claire, Cosmo Girl, and The Wine Enthusiast; as well as
13 in regional newspapers such as the LA Times, the NY Times, and the Houston
14 Chronicle. (See Exhibit A). As such, Plaintiff's brands have developed a fame
15 all of their own, catapulting the Vampire brand into the category of a famous
16 mark.

17 60. Plaintiff's associates and predecessors in interest periodically work
18 with Hollywood film companies and engage in mutually beneficial
19 promotions. For example, Plaintiff's products can be found in the Blade films
20 (starring Wesley Snipes) and HBO's Trueblood Series. Plaintiff has done
21 promotions connecting its Vampire family of brands to films such as the
22 Underworld series (starring Kate Beckinsale) and Blade Trinity. Plaintiff's
23 wines also have been featured and poured at film premiers for *Dusk Til' Dawn*
24 (written by Quentin Tarantino) and *Dark Shadows* (starring Johnny Depp). A
25 small sampling of the press talking about Plaintiff's Vampire family of brands
26 is attached as Exhibit A.

27 61. Plaintiff fears that Defendants' use of the word Vampire as a mark
28 for goods and services will ultimately cause consumers to believe that
Plaintiff's branded wines, spirits, cocktails, coffee and restaurants are not of the

1 high quality that they actually are and will tarnish, dilute, and otherwise
2 damage the reputation of Plaintiff's goods and services. This will lead to
3 irreparable harm to Plaintiff's goodwill, reputation, and sales.

4 **COUNT IV**
5 **VIOLATION OF LANHAM ACT 15 U.S.C. §1125(d)**

6 62. Plaintiff repeats each allegation contained in paragraphs 1 through
7 61 as though set forth herein at length.

8 63. The Defendants are using a sound-a-like of Vampire Coffee,
9 specifically Vampire Coffi and have created the website
10 www.vampirecoffi.com.

11 64. Defendants are unlawfully and in bad faith profiting off the use of
12 Plaintiff's VAMPIRE family of trademarks by maintaining a website with the
13 sound-a-like name www.vampirecoffi.com as a url. When one googles
14 Plaintiff's brand VAMPIRE coffee, defendants' website
15 www.vampirecoffi.com comes up as one of the top four choices, sending traffic
16 to the infringing website which sells the infringing products, fulfilled by
17 Defendants Calutech and Freitag, and all defendants share financially from the
18 unlawful enterprise.

19 65. Defendants have never had any bona-fide good use of the term
20 VAMPIRE COFFI, nor could they since they are not the trademark owner.
21 When consumers go to vampirecoffi.com they arrive at the Defendants'
22 website which causes confusion amongst customers leading some customers
23 to mistakenly infer that Plaintiff's have a new product line, or worse to
24 perhaps question the legitimacy of Plaintiff's line of products.

25 66. Defendants are using vampirecoffi.com to divert consumers from
26 vampire.com from which they can buy the authentic VAMPIRE coffee to their
27 infringing website, vampirecoffi.com so that they can profit unlawfully.
28

68. Defendants are unlawfully profiting off Plaintiff's good will and business in the VAMPIRE family of registered trademarks and are using www.vampirecoffi.com in violation of 15 U.S.C. 1125 (d) and consequentially are liable to Plaintiff for damages.

9 WHEREFORE, Plaintiff prays for judgment as follows:

B. That the Court adjudge and decree that Defendants have infringed Plaintiff's registered VAMPIRE trademarks.

D. That the Court adjudge and decree that Defendants unlawfully
Induced others to infringe upon Plaintiff's trademarks.

23 F. That the Court permanently enjoin Defendants, its agents, servants,
24 employees, attorneys, and all persons acting in concert or participation with
25 them or any of them from:

1 words, trademark, service mark, trade name, or other business
 2 or commercial designation in connection with the sale, offering
 3 for sale, advertising, and promotion of food or beverage
 4 products and accessories.

- 5 b. Using VAMPIRE, or any other word or words which are similar
 6 to, or a colorable imitation of, Plaintiff's trade names and marks,
 7 either alone, as part of, or together with, any other word or
 8 words, trademark, service mark, trade name, or other business
 9 or commercial designation in connection with the sale, offering
 10 for sale, advertising, and promotion of food or beverage
 11 products and accessories;
 12 c. Selling, offering to sell, marketing, distributing, advertising, and
 13 promoting any food or beverage product, good, or service with
 14 the word VAMPIRE (or similar word) displayed on any
 15 product, packaging, advertising, or promotional materials;
 16 d. Representing directly or indirectly by words or conduct that any
 17 food or beverage product, good, or service offered for sale, sold,
 18 promoted, or advertised by Defendant is authorized, sponsored
 19 by, endorsed by, or otherwise connected with Plaintiff;
 20 e. Aiding or abetting in unfair competition against Plaintiff;
 21 f. Aiding or abetting in false advertising; and
 22 g. Inducing others to engage in any of these aforementioned acts.

23 G. That the Court award an amount to be determined at trial, but at least
 24 an amount equivalent to treble the amount of Defendants' illicit profits
 25 (*including profits made by Defendants from all sales since they used Plaintiff's mark*
 26 *to bring customers in to buy other products*), or Plaintiff's lost profits, whichever
 27 is greater.

28 H. That the Court award an amount to be determined at trial but at least

1 an amount equal to the cost of prospective corrective advertising.

2 I. That the Court instruct and order the domain register,
3 GODADDY.COM, LLC, for the domain www.vampirecoffi.com to transfer the
4 domain to Plaintiff.

5
6 J. That the Court award Judgment against Defendants for the full costs
7 of this action, including the attorney's fees reasonably incurred by Plaintiff.

8 K. That the Court order such other further and different relief as the
9 nature of this action may require and as the Court may deem just and proper.

10 L. That the Court retain jurisdiction of this action for the purpose of
11 enabling Plaintiff, in its discretion, to apply to this Court at any time for such
12 further orders and directions as may be necessary or appropriate for the
13 interpretation or execution of any Order entered in this action, for the
14 modification of any such Order, for the enforcement of compliance therewith,
15 and/or for the punishment of any violation thereof.

16 **DEMAND FOR JURY TRIAL**

17 Plaintiff hereby requests a trial by jury on all triable issues raised by the
18 Complaint.

19 DATED this 19th day of June, 2023.

20
21 Respectfully submitted by:

22
23 Michael Machat

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